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WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

STATE OF WISCONSIN
ARBITRATION AWARD

In the Matter of the Arbitration between :

CITY OF CHIPPEWA FALLS (POLICE DEPARTMENT) :

and :

WISCONSIN PROFESSIONAL POLICE ASSOCIATION/LEER DIVISION :

Re: Case 111, No. 51731
MIA-1923
Decision No. 28334 -A

APPEARANCES: For the Employer, City of Chippewa Falls (Police Department): Weld, Riley, Prens & Ricci, S.C. by Stevens L. Riley, Esq., 715 South Barstow Street, P.O. Box 1030, Eau Claire, Wisconsin 54702-1030. Mr. Riley was accompanied at the hearing by Carol Bellinger, Research Associate in his law firm; and by Virginia O. Smith, Mayor; Tim Noemand, Alderman; Howard Schmidt, Committee #2 Chairman; and by Joe Rohrman, City Comptroller, all of City Hall, 30 West Central Street, Chippewa Falls, Wisconsin 54729.

For the Wisconsin Professional Police Association/LEER Division: Richard T. Little, Bargaining Consultant, WPPA/LEER, 9730 West Bluemound Road, Wauwatosa, Wisconsin 53226. Mr. Little was accompanied at the hearing by Richard Daley, Business Agent, and by local committee members Michael Farley, Eugene Gunderson, and Mark Bauman of the Chippewa Falls Professional Police Association.

The Association is the exclusive collective bargaining agent for law enforcement personnel employed by the City of Chippewa Falls. Bargaining over the renewal of the parties' labor agreement commenced in the fall of 1994. On October 26, 1994 the Association filed a petition with the Wisconsin Employment Relations Commission requesting that final and binding arbitration be initiated pursuant to Sec. 111.77(3) of the Municipal Employment Relations Act. An informal investigation was conducted by Commissioner Herman Torosian on December 5, 1994. On January 23 and 24 the parties presented their final offers to Mr. Torosian. On February 24, 1995, he advised the Commission that the parties were at impasse and that the investigation was closed. On March 9, 1995, the Commission declared an impasse and certified that conditions precedent to the initiation of compulsory final and binding arbitration as required by the statute had been met.

The undersigned was notified of his selection as arbitrator by letter from the Commission dated April 5, 1995. A hearing was held in Chippewa Falls on

June 6. Both parties presented documentary evidence and the City presented one witness. At the conclusion of the hearing the parties agreed to send briefs for the arbitrator to exchange. The briefs were exchanged on July 10 and the record is considered closed as of that date.

THE ISSUES

The final offers of the parties are attached to this document. The Employer's final offer is marked Attachment A and the Association's final offer is marked Attachment B.

In this proceeding the arbitrator is required by the statute to adopt the entire final offer of one of the parties.

CRITERIA TO BE CONSIDERED BY THE ARBITRATOR

Section 111.77(6) of the statute contains eight factors to be considered. Neither party introduced any discussion of factors (a), (b), (c), (f), (g), or (h). The Association but not the Employer discussed the application of factor (e), "average consumer prices for goods and services, commonly known as the cost-of-living." In its argument the Association pointed out that thus far in 1995 the Consumer Price Index for nonmetro consumers has increased by an average of 3.5 percent. The percentage increase was 3.3 in 1994. Since both parties propose a 3 percent increase for 1995 and differ as to the duration of the agreement, the pertinent application of this factor involves speculation over how cost-of-living may change in a prospective second and third year if the Employer's final offer were to be adopted. Since we know that current changes in consumer prices exceed the 3 percent wage increase proposed for this year, I conclude that consideration of this factor favors the Association final offer since an agreement of one year's duration would allow for redressing in 1996 and 1997 negotiations what appears already in 1995 to be a decline in real income for members of the bargaining unit.

The factor that both parties emphasize in this proceeding is (d), which reads as follows:

Comparison of the wages, hours and conditions of employment of the municipal employes involved in the arbitration proceeding with the wages, hours and conditions of employment of other employes performing similar services and with other employes generally:

1. In public employment in comparable communities.
2. In private employment in comparable communities.

Both parties use a list of external comparable employer units that was used by Arbitrator Arlen Christenson in a Chippewa Falls Police Department interest arbitration in 1993 (Dec. No. 27423-A), although the Association left the City

of Eau Claire out of its exhibits on grounds that their agreement was not yet settled for 1995. The comparables are the cities of Altoona, Barron, Black River Falls, Bloomer, Eau Claire, Ladysmith, Marshfield, Menomonie and Rice Lake, the town of Hallie, and the counties of Chippewa, Dunn and Eau Claire. In almost all measurements, i.e., size of department, various measurements of criminal offenses, and base monthly or annual salary rates for the various classifications, Chippewa Falls is near the middle compared with the other thirteen jurisdictions. Chippewa Falls personnel work 1950 hours per year whereas most of the other jurisdictions have annual hours closer to 2080, which puts Chippewa Falls rates figured on an hourly basis behind only Eau Claire in 1994. This somewhat diminishes the Association argument that the 3 percent lift proposed by both parties is the lowest among the comparables, since the hourly rate in 1995 would still be the highest except for Eau Claire among the thirteen comparables. According to an Employer exhibit all the other jurisdictions have either two or three year agreements and there is no support among the comparables for a one year agreement.

The Employer's other principal support for its final offer is in its internal comparables. The City has four collective bargaining units: firefighters; street/water/city hall; parks/recreation/forestry; and police. Since 1986 all units have moved in lockstep with three year agreements and identical or almost identical wage lifts. The other three units have settled for new three year agreements for 1995, 1996, and 1997 with 3 percent increases each year as well as the identical non-wage provisions in the City's final offer in this proceeding. The Employer argues that to grant the Association's final offer of a one year agreement would result in disruption in the other units if the police unit gained different conditions in 1996 and 1997 negotiations.

The Union argues that there is no support in the external comparables for the Employer's non-wage proposals. Conversely it is the internal comparables that form the basis for the Employer's support for its non-wage proposals, i.e., the fact that the other three units have already accepted them. Beyond that the Employer argues that those issues are de minimus. The optional six month extension of the probationary period would not affect an employee's first year salary increase; the proposed sick leave change increases the benefit; the unemployment compensation clause is eliminated because its content is required by law, making the clause redundant; and the 15 day delay in making semiannual payments for overtime, call-in pay, school pay, and holiday pay is termed insignificant.

OPINION

Although any discussion of it seems to be ignored in arbitration awards, I do not believe that internal comparisons are contemplated by subparagraph (d) of Section 111.77(6), quoted above. It is clearly covered in Section 111.70 covering non-uniformed municipal employees in the somewhat different listing of factors to be considered: that is, in subparagraph e., which calls for "comparison . . . with the wages, hours and conditions of employment of other employes generally in public employment in the same community. . ." Although I do not think that the Employer specifically based its argument on it, it is factor (h) that must be considered here:

Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between the parties, in the public service or in private employment.

It is well accepted by most arbitrators and certainly by this one that if several bargaining units of the same employer have already settled for the identical conditions that are being offered to the unit involved in the arbitration proceeding, there would need to be a very persuasive case to overcome the presumption that a similar settlement should be applied to the unit in question. I am sympathetic with the Association's position that accepting the Employer's final offer will in all probability cause a continuation and for all anyone knows an intensification of the current decline in real wages of policemen in this unit. But I would be reluctant to risk the disarray between the Employer and the other bargaining units that might result in future years from adopting the Association's final offer.

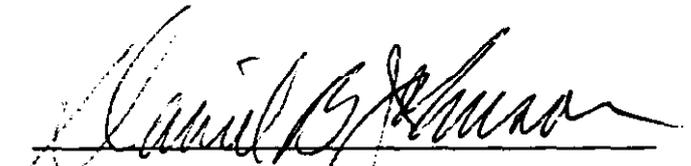
And even though the Association points out that among the comparable jurisdictions the 3 percent wage increase is less than any of the others, these data lose much of their significance when we consider that the Association is not proposing a wage increase larger than 3 percent.

I do not agree that the Employer's non-wage offers are de minimus. But the change in sick leave accumulation is actually favorable to members of the unit, elimination of the unemployment compensation clause appears to be irrelevant, and while the other two changes do not favor employee interests, they are not significant enough to affect the overall decision.

AWARD

The Employer's final offer is accepted as the award in this proceeding and shall be incorporated in the 1995-1997 labor agreement between the parties..

Dated: August 8, 1995
In Madison, Wisconsin



David B. Johnson, Arbitrator

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 JAN 26 1995

CITY OF CHIPPEWA FALLS
 AND
 CHIPPEWA FALLS PROFESSIONAL POLICE ASSOCIATION
 CASE 111, NO. 51731, MA-1923

WISCONSIN EMPLOYMENT
 RELATIONS COMMISSION

EMPLOYER FINAL OFFER

January 24, 1995

1. ARTICLE V - PROBATION - Amend to read as follows (new material underlined; deleted material lined out):

New employees of the ~~Professional Policemen's Association~~ serve a one (1) year period of probation; provided, however, that this period may be extended by the Chief of Police for performance-related reasons for a period of six (6) months; provided, further, however, that such extension shall not serve to delay the employee's eligibility for any post-probationary wage increase. The Employer will make every effort to assign or enroll probationary employees in required schools or courses at a time to permit completion within the probationary period. During the probationary period, or any extension thereof, the Employer may separate an employee from service without recourse to the grievance procedure.

2. ARTICLE XI - SICK LEAVE (New material underlined, deleted material lined out):

Sections 1 through 5. No change.

Section 6. Sick days shall be accumulated at the rate of one (1) day per month to a total of ninety (90) days. ~~The first seventy five (75) days of sick leave shall be credited to an account known as the "75 Day Sick Leave Account" and any accumulated in excess thereof shall be credited to a "Bank" account.~~

~~Section 7.~~ ~~Sick days used shall be withdrawn from the "75 Day Sick Leave Account" first, and days subsequently earned shall be credited to this account.~~

Section 7. Sick days accumulated in excess of ninety (90) days shall be accounted for each December 31st. One half of those accumulated days shall be paid at the employee's regular rate of pay on the following January 15th. The remaining one-half shall be credited to a "Special Sick Leave Bank" which shall be used only in emergencies and when all other sick leave credits have been exhausted.

Section 8. Sick days used shall be withdrawn first from the ninety (90) day account. Sick days in the "Special Sick Leave Bank" shall be used only after the ninety (90) day account is depleted and in case of extreme emergency.

APPENDIX A

Section 9. Employees terminating their employment shall have vested rights in the "~~75 Day Sick Leave Account~~" first 75 days if sick leave in the 90 day account only, and shall receive a severance pay from that account as follows:

[Remainder of Section 9 and Sections 10 and 11 - no change.]

3. ARTICLE XII - UNEMPLOYMENT COMPENSATION - Delete
4. ARTICLE XV - COMPENSATION - Amend Section 2 read as follows (new material underlined; deleted material lined out):

Section 2. Paychecks will be issued bi-weekly on alternate Thursdays at 12:00 P.M. within the Department. Holiday pay, overtime pay, call-in pay, and school pay shall be paid on June ~~15~~ 30 and December 15. Longevity payable to Association employees will be included in their bi-weekly salary during the term of this contract.

5. ARTICLE XVI - DURATION AND EXECUTION - Amend to read as follows (new material underlined; deleted material lined out):

This agreement shall be effective as of the first day of January, ~~1992~~ 1995 and shall remain in full force and effect through the 31st day of December, ~~1994~~ 1997. It shall automatically be renewed from year to year thereafter unless either party shall notify the other in writing on or before the first day of each year that it desires to modify this agreement.

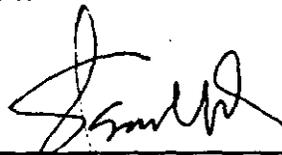
Either party may request negotiations for a new collective bargaining agreement in writing on or before June 1, ~~1994~~ 1997. Within thirty (30) days of receipt of such notice, an initial meeting shall be mutually agreed upon. Negotiations on all matters covered by this new agreement as are agreed to by both parties shall become effective on January 1, ~~1995~~ 1998.

In the event a successor agreement is not reached by the expiration date contained herein, all terms and conditions of this agreement shall remain in full force and effect until a successor agreement is executed.

6. ARTICLE XVII - SALARY - Amend Section 1 to provide for the following salary increases:

Effective January 1, 1995 - 3%
Effective January 1, 1996 - 3%
Effective January 1, 1997 - 3%

Dated: January 24, 1995



Stevens L. Riley, Attorney for Employer

FINAL OFFER

OF THE

WISCONSIN PROFESSIONAL POLICE ASSOCIATION/
LAW ENFORCEMENT EMPLOYEE RELATIONS DIVISION

TO THE

CITY OF CHIPPEWA FALLS

January 23, 1995

The final offer of the WPPA-LEER division for a collective bargaining agreement between WPPA-LEER and Chippewa Falls is as follows:

- A. All terms and conditions of the 1992-1994 Agreement shall be continued for a one (1) year term except as noted below:
- B. Revise all applicable dates to reflect a duration of one (1) year. (1995)
- C. Revise ARTICLE XVIII - SALARY to reflect the following:
Effective 1-1-95 Three percent (3%) across the board.

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